

## Federal Housing Finance Board

## § 908.61

the time specified in the subpoena for compliance, but no more than ten days after the date of service of the subpoena upon the movant.

(c) *Enforcing subpoenas.* If a subpoenaed person fails to comply with any subpoena issued pursuant to this section or any order of the presiding officer that directs compliance with all or any portion of a hearing subpoena, the subpoenaing party or any other aggrieved party may seek enforcement of the subpoena pursuant to § 908.8(c). A party's right to seek court enforcement of a hearing subpoena shall in no way limit the sanctions that may be imposed by the presiding officer on a party who fails, or induces a failure, to comply with any subpoena issued under this section.

§§ 908.56–908.59 [Reserved]

### Subpart E—Hearing and Post-hearing Proceedings

#### § 908.60 Conduct of hearings.

(a) *General rules.*—(1) *Hearings.* Hearings shall be conducted in accordance with chapter 5 of Title 5 of the United States Code (5 U.S.C. 501–559) and other applicable law, so as to provide a fair and expeditious presentation of the relevant disputed issues. Except as limited by this subpart, each party has the right to present its case or defense by oral and documentary evidence and to conduct such cross-examination of witnesses as may be required for full disclosure of the facts.

(2) *Order of hearing.* The Finance Board shall present its case-in-chief first, unless otherwise ordered by the presiding officer or unless otherwise expressly specified by law or regulation. The Finance Board shall be the first party to present an opening statement and a closing statement and may make a rebuttal statement after the respondent's closing statement. If there are multiple respondents, respondents may agree among themselves as to their order or presentation of their cases, but if they do not agree, the presiding officer shall fix the order.

(3) *Examination of witnesses.* Only one representative for each party may conduct an examination of a witness, except that in the case of extensive direct

examination, the presiding officer may permit more than one representative for the party presenting the witness to conduct the examination. A party may have one representative conduct the direct examination and another representative conduct re-direct examination of a witness, or may have one representative conduct the cross examination of a witness and another representative conduct the re-cross examination of a witness.

(4) *Stipulations.* Unless the presiding officer directs otherwise, all documents that the parties have stipulated as admissible shall be admitted into evidence upon commencement of the hearing.

(b) *Transcript.* The hearing shall be recorded and transcribed. The transcript shall be made available to any party upon payment of the cost thereof. The presiding officer shall have authority to order the record corrected, either upon motion to correct, upon stipulation of the parties, or following notice to the parties upon the presiding officer's own motion.

#### § 908.61 Evidence.

(a) *Admissibility.* (1) Except as is otherwise set forth in this section, relevant, material and reliable evidence that is not unduly repetitive is admissible to the fullest extent authorized by the Administrative Procedure Act (5 U.S.C. 551–559) and other applicable law.

(2) Evidence that would be admissible under the Federal Rules of Evidence (*see generally*, 28 U.S.C.) is admissible in a proceeding conducted pursuant to this subpart.

(3) The presiding officer may admit evidence, which otherwise would be inadmissible under the Federal Rules of Evidence (28 U.S.C.), upon a finding made on the record that the evidence is relevant, material, probative and reliable, and would not prejudice the rights of or cause an undue burden to any party to the proceeding.

(b) *Official notice.* (1) Official notice may be taken of any material fact that may be judicially noticed by a United States district court and any material information in the official public records of any Federal or State government agency.